WORLDCOM

Christopher J. McDonald
Senior Attorney
Public Policy
Northern Region

200 Park Avenue
New York, NY 10166
212 519 4164
Fax 212 519 4569
Christopher.McDonald@wcom.com

April 30, 2002

By Email & Overnight Courier
Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
Commonwealth of Massachusetts
One South Station
Boston, MA 02110

Re: ***D.T.E. 02-26***

Dear Ms. Cottrell:

Pursuant to the April 17, 2002 memorandum of Hearing Officer Foley, WorldCom, Inc. hereby submits its comments concerning Verizon's proposed tariff revisions of April 10, 2002. Verizon's tariff filing proposes to lower Verizon's usage rates for unbundled local switching and transport and related charges so that they are the same as the rates proposed by Verizon in D.T.E. 01-20.

While WorldCom always welcomes lower UNE rates, Verizon's proposal comes "too little too late." For the reasons discussed below, the Department should reject Verizon's proposal and instead order Verizon to adopt in Massachusetts switching and transport rates that are no higher than the rates recently approved by the New York Public Service Commission ("NYPSC"). Rates at or below the new New York rates, and not the higher rates Verizon has proposed in D.T.E. 01-20, should replace Verizon's current rates for the duration of time it takes the Department to decide D.T.E. 01-20.

The history of this ongoing dispute is well known to the Department and will only be summarized here. In the Fall of 2000, Verizon's application to the Federal Communications Commission ("FCC") for §271 authority was in jeopardy in part because of Verizon's sky-high UNE switching and transport rates. To address the concerns over its UNE rates, in October 2000, Verizon proposed (and the Department approved) rate reductions the "effect of [which was] to make the Massachusetts rates equivalent to the rates for Verizon NY, which the FCC previously approved in the New York 271 proceeding." October 13, 2000 letter from Robert Mudge, President-Verizon Massachusetts, to Department of Telecommunications and Energy, at 1. Although Verizon eventually chose to withdraw that initial §271 application for Massachusetts, its subsequent application, with the "New York rates" still in place, was approved by the FCC in April 2001.

The New York rates that served as the basis for Verizon's October 2000 rate reduction in Massachusetts were then in the process of being reviewed by the NYPSC. In January of this year, the NYPSC completed that review, the results of which included dramatic reductions in the switching and transport UNE rates in New York. *See Order on Unbundled Element Rates*, Case 98-C-1357 (Jan. 28, 2002) ("*NYPSC Order*") at 20-42; 122-128.[1] Because Verizon chose to meet its §271 obligations in Massachusetts by basing its switching, transport and line port rates on the comparable rates in New York, Verizon's *continuing* obligations pursuant to §271 require that, at a minimum, its rates *continue* to match those of New York, at least until the Department concludes its investigation in D.T.E. 01-20 and sets new permanent UNE rates.

The rates proposed by Verizon here are simply its litigation position in D.T.E. 01-20 and the Department should not presume that these proposed rates are in compliance with federal or state law.[2] Indeed, the overwhelming evidence presented by WorldCom, AT&T and other parties in D.T.E. 01-20 shows that Verizon's proposed switching and transport rates are grossly inflated. (Rather than marshal all the arguments and evidence presented in D.T.E. 01-20, for purposes of these comments, WorldCom hereby incorporates by reference the briefs it submitted in that docket.) The Department therefore should conclude, subject to the completion of its investigation in D.T.E. 01-20, that any UNE rates higher than the rates recently approved by the NYPSC are not in compliance with the FCC's TELRIC rules[3] and are "unjust, unreasonable [and] unjustly discriminatory" under G.L. c.159, §14.

By proposing rates that are significantly higher than those adopted by the NYPSC, Verizon has failed to achieve its stated goal of "eliminat[ing] any question concerning [its] continuing compliance with Section 271 of the Telecommunications Act." As is evidenced both by the new New

---

1 For instance, while Verizon proposes a per minute of use ("mou") originating switching rate of $0.002888, which is an improvement over the current rate of $0.003298, it is still more than double the new New York rate of $0.001147/mou. Likewise, for the terminating switching rate, while Verizon's proposal of $0.002533 is lower than the current rate of $0.003298, it too is more than twice the new New York rate of $0.001111/mou. The new unbundled switching and transport rates for New York are memorialized in the Verizon Incentive Plan, Cases 00-C-1945 and 98-C-1357, "Order Instituting Verizon Incentive Plan" (Feb. 27, 2002) at Appendix A, and also in Verizon's Tariff PSC NY No. 10 at Sections 5.6.1.7(A) and 5.6.1.7(I). The *NYPSC Order* can be found at http://www.dps.state.ny.us/fileroom/doc11122.pdf; the Order Instituting Verizon Incentive Plan can be found at: http://www.dps.state.ny.us/fileroom/doc11226.pdf, and; Verizon's tariffs can be found at: www.verizon.com/tariffs.

2 Although Verizon has claimed that the proposed rates in its April 10 tariff filing are the same as the rates it has proposed in the 01-20 docket, in at least one instance this appears not to be the case: Unbundled Local Common Transport, according to Verizon's tariff filing, is $0.001061/mou. According to Verizon's response to a record request in the 01-20 case, that same UNE is identified as having a lower rate of $0.000399/mou. *See* RR-DTE 48 (MA 01-20 Recurring Cost Summary.xls at C214).

3 WorldCom notes that even the new New York rates are not fully TELRIC-compliant; WorldCom expects that the Department will ultimately adopt lower, fully TELRIC-compliant UNE rates in D.T.E. 01-20.

York rates and the facts presented in D.T.E. 01-20, the rates Verizon has proposed are not cost based, as the law requires.

Verizon made a bargain in October 2000. It adopted rates in Massachusetts that it knew to be under active review by the NYPSC, and in return it gained long distance authority. Verizon has enjoyed a year's worth of participation in the long distance market and has won significant market share in just 12 months. If Verizon were truly interested in complying with federal law, it would, at the very least, voluntarily adopt the new New York rates in Massachusetts. But Verizon has refused to do so, and the local market remains largely closed to competition because of above cost UNE rates. Verizon's newest rate proposal would only perpetuate that barrier to entry. Because Verizon continues to resist all efforts to pry open its monopoly market, WorldCom asks the Department to reject the Verizon filing and instead order Verizon to file switching and transport rates that are equal or lower than the rates approved by the NYPSC in January of this year.

Very truly yours,

Christopher J. McDonald

cc (*by email & U.S. Mail*): Service Lists in D.T.E. 01-20, 98-57-Phase III and 99-271